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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/756,185	01/09/2001	Marina Ziche	ZICHE1	5690

7590 04/20/2004

BROWDY AND NEIMARK, P.L.L.C.
624 Ninth Street, N.W.
Washington, DC 20001

EXAMINER

MITRA, RITA

ART UNIT	PAPER NUMBER
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1653

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/756,185

Applicant(s)

ZICHE ET AL.

Examiner

Rita Mitra

Art Unit

1653

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): 112, second paragraph.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

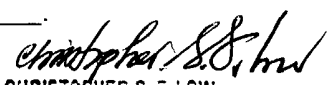
Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 3,4,6,10-25.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


CHRISTOPHER S. F. LOW
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1800

Continuation of 5:

In regard to the rejection of claims 3, 6, 11, 12, 19, 20, 23-25 under 35 U.S.C. 103(a) over Borrelli F. [In previous office actions inventor Martelli F. was cited who is a co-inventor and Borrelli F. is the first inventor, please note the correction] (WO 97/39765, October 30, 1997, Reference AB of IDS) taken with Folkman J. ("Clinical application of research on angiogenesis", Seminars in medicine of the Beth Israel Hospital, vol 333, No. 26, 1995, Reference AC of IDS). Borrelli discloses a pharmaceutical composition comprising component B as active ingredient, together with a pharmaceutically acceptable carrier (see claim 3 and also page 13). Borrelli also teaches a method of treatment of wounds, ulcers and other traumatic lesions to any of the tissues in the body, comprising administering an effective amount of Component B, together with a pharmaceutically acceptable carrier (see claim 4 and pages 1-2). This addresses claims 3, 11, 12 and 20 of the instant application. In view of the fact that the reference teaches both composition and method of treatment using Component B, it would have been obvious to and motivated one of ordinary skill in the art to have combined the teachings with those of, Folkman J.

Applicants argue that Borrelli does not teach or suggest that component B can be used as an angiogenic agent, nor does it teach or suggest that use of component B together with human growth factors for causing angiogenesis. Arguments are not persuasive because it is well established that angiogenesis is a critical factor in wound healing, and Borrelli discloses a method of treatment of wounds, ulcers and other traumatic lesions to the tissues comprising administering an effective amount of component B. The angiogenesis property is inherent in component B, and since Borrelli teaches the method of treatment of wounds it is obvious that component B has angiogenic property.

Further Applicants urge that with respect to claim 20 Borrelli teaches the use of component B as anti-inflammatory, anticoagulant, antitumorigenic and cicatrizant for the treatment of wounds, ulcer and other traumatic lesion of the body but there is no teaching or suggestion that component B has angiogenic property. In response it should be noted that tumor growth and metastasis depend on angiogenesis and that a chemical signal from tumor cells can shift to resting endothelial cells into a phase of rapid growth (see Folkman, page 1757, col 1).

Since component B is antitumorigenic it may have a role of angiogenesis in cancer. Further Applicants urge that there is no suggestion in Folkman reference that the use of either of bFGF and vEGF will provide synergistic angiogenic effects if combined with component B. However, Folkman reference does not teach a composition that comprises Component B as claimed in claims 3. In view of the fact that Borrelli reference teaches Component B in a composition, it would have been obvious to and motivated one of ordinary skill in the art to have combined Borrelli's Component B with Folkman's angiogenic protein to give synergistic results as claimed in claims 19, 23, 24 and 25. Therefore, claims 3, 6, 11, 12, 19, 20, 23-25 are obvious over Borrelli taken with Folkman.



Rita Mitra, Ph. D.

April 18, 2004
